



Comptroller General
of the United States

Washington, D.C. 20548

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Decision

Matter of: Sioux Falls Shopping News--Request for
Reconsideration

File: B-236421.2

Date: October 30, 1989

DIGEST

Request for reconsideration of dismissal of protest is denied where dismissal was due to protester's failure to file timely comments on the agency report. A protester acts at its own risk when it relies upon the mails or private courier to deliver protest materials.

DECISION

Sioux Falls Shopping News requests reconsideration of our September 28, 1989, dismissal of its protest under a solicitation, Jacket No. 245-157, issued by the Government Printing Office for printing of Internal Revenue Service pamphlets. We dismissed Sioux Falls' protest because the protester did not file written comments on the agency's report within 10 working days of the September 11 date for receipt of the report. In its request for reconsideration, the protester encloses a copy of a letter dated September 13 stating that it wished its protest decided on the existing record. Based on this, the protester requests that we reopen the protest.

We have no record of having received the September 13 letter and we affirm the dismissal.

Our Regulations require that the contracting agency furnish our Office with a report on the protest within 25 working days after the protest is filed. 4 C.F.R. § 21.3(i) (1989). They also specifically provide (as reflected in our standard protest acknowledgment letter) that comments on the agency report shall be filed within 10 days after receipt of the report and that we will assume the protester received the agency report no later than the scheduled due date as

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specified in the standard acknowledgment notice, unless otherwise advised by the protester. The Regulations also provide for our dismissal of the protest without action if we do not timely hear from the protester. 4 C.F.R. § 21.3(k).

We did not receive the September 13 letter until the protester filed its reconsideration request on October 4. Our Regulations require that the protester's written submission be received by our Office within the required 10 days, regardless of whether the protester chooses to respond to the report or wishes to have the protest considered on the record. 4 C.F.R. §§ 21.0(g) and 21.3(k). Therefore, neither the fact that a protest submission was sent, nor the date it was sent, is relevant to its timeliness--the submission must be received by our Office within the required time. A protester makes use of the mails or private courier service at its own risk, and a delay--or a failure to make delivery--does not serve as a basis for waiving our Regulations and considering a protest that has not complied with our regulations. The Richard-Rogers Group, Inc.--Request for Reconsideration, B-234141.6, Feb. 22, 1989, 89-1 CPD ¶ 194; California Shorthand Reporting--Request for Reconsideration, B-221173.2, Feb. 18, 1986, 86-1 CPD ¶ 170.

The original dismissal is affirmed.



James F. Hinchman
General Counsel